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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,713	10/29/2001	Johannes J. Mons	PHN 16-657A	5400

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EXAMINER

DINH, TAN X

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 05/27/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.


**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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DATE MAILED:

 This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS
OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on 5/15/2003
- ☐ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☐ Claim(s) _____ is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 10-17 is/are allowed.
- ☒ Claim(s) 18-29 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☒ received in Application No. (Series Code/Serial Number) 09/355,379
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

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1) A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/15/2003 has been entered.

2) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

3) (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371[©] of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35

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U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4) Claims 18-29 are rejected under 35 U.S.C. 102(e) as being anticipated by MAEDA (6,275,457).

a) MAEDA discloses a method as claimed in claim 18, comprising:

providing an unitary storage medium (the optical disk in figure 1);

storing audio information on the unitary storage medium (Figs.6A-6D, the audio information are stored in audio area);

forming a filed-based access mechanism on the unitary storage medium (Fig.6B, file system), includes a TOC mechanism for storing and accessing the audio information (Fig.6B, Master TOC and figure 6C, TOC-1 area).

b) The unitary storage medium of claim 24 is drawn to the corresponding method of using same as claimed in claim 18.

Therefore unitary storage medium of claim 24 is rejected for the same reasons of anticipation (obviousness) as used above.

c) As to claims 19 and 25, MAEDA shows the file-based access mechanism includes a root directory in figure 6B, master TOC (in this case, the master TOC performs the same functions as root directory of the instant application).

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d) As to claims 20,21,26 and 27, MAEDA shows root directory contains lower level sub TOC filed directory for further accessing to audio information at different levels (Figs.6A-6D, sub TOC-1, TOC-2. See also column 7, lines 35-65).

e) As to claims 22 and 28, MAEDA shows the TOC mechanism includes a data-based TOC for storing and accessing the audio information in figure 6B, master TOC (in this case, the master TOC has been recorded with management information of entire disc which includes storing and accessing audio information).

f) As to claims 23 and 29, since the unitary storage medium of MAEDA stores audio and video information (music or movie film) then the track must be a single serial track and the TOC mechanism and the file-based access (file system) are stored on the single serial track of the unitary storage medium (the TOC mechanism and the file-based access (file system) are stored on the single serial track as seen in figure 6B, file system and master TOC).

5) Claims 10-17 are allowed.

6) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited

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and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR §1.111(c).

BRUEKERS et al (6,522,695) and VERBAKEL et al (6,370,090) discloses a storage medium having file-based access (file system), a TOC mechanism and method for storing and playing back thereof.

7) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to TAN DINH whose telephone number is (703)308-4859. The examiner can normally be reached on Monday - Friday from 8:00AM to 5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4750, or the customer service whose telephone number is (703)306-0377.


TAN DINH
PRIMARY EXAMINER
May 21, 2003